

REMARKS

This Response is to the Office Action dated May 26, 2010. In the Office Action, claims 1 to 15, 17 to 19 and 21 to 28 are pending and rejected, with claims 16 and 20 having been previously cancelled. By this Response, claims 1, 15, 18 and 24 have been amended. No new matter has been added by these amendments. Applicants do not believe any fees are due in connection with this Response. However, the Commissioner is hereby authorized to charge any amounts deemed due to Deposit Account No. 02-1818.

In the Office Action: (a) claims 1 to 15, 17 to 19 and 21 to 28 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement; (b) claims 1 to 15, 17 to 19 and 21 to 28 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite; (c) claims 1 to 11, 13 to 15, 17 to 19, 21 and 23 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2002/0038392 to De La Huerga ("*De La Huerga*") in view of U.S. Publication No. 2002/0093537 to Bocioned ("*Bocioned*") further in view of U.S. Publication No. 2003/0084024 to Christensen ("*Christensen*") in view of U.S. Patent No. 6,360,211 to Anderson ("*Anderson*") and further in view of U.S. Patent No. 5,953,706 to Patel ("*Patel*"); (d) claims 12 and 22 were rejected under 35 U.S.C. §103(a) as being unpatentable over *De La Huerga* in view of *Christensen* and further in view of *Anderson* and U.S. Publication No. 2003/0105806 to Gayle et al. ("*Gayle*"); (e) claims 24, 25 and 27 were rejected under 35 U.S.C. 103(a) as being unpatentable over *De La Huerga* in view of *Bocioned* and further in view of *Anderson* and *Patel*; (f) claims 26 and 28 were rejected under 35 U.S.C. 103(a) as being unpatentable over *De La Huerga* and *Bocioned* in view of *Anderson*, *Patel* and *Gayle*; and (g) claim 27 was rejected under 35 U.S.C. 103(a) as being unpatentable over *De La Huerga* in view of *Bocioned* and further in view of *Anderson* and *Patel*.

Regarding the rejection of claims 1 to 15, 17 to 19 and 21 to 28 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement and claims 1 to 15, 17 to 19 and 21 to 28 under 35 U.S.C. §112, second paragraph, as being indefinite, Applicants have amended each of these claims in accordance with the comments in the Office Action and accordingly respectfully request that this rejection be withdrawn as moot. Applicants respectfully request that these amendments be entered in connection with the present amendment after final rejection, as they were requested by the Examiner, and are believed to place the claims in condition for allowance without further search, and in view of the following arguments.

Regarding the rejection of claims 1 to 11, 13 to 15, 17 to 19, 21 and 23 were rejected under 35 U.S.C. §103(a) as being unpatentable over *De La Huerga* in view of *Bocioned* further in view of *Christensen* in view of *Anderson* and further in view of *Patel*, Applicants respectfully request that the rejection be withdrawn at least because, as discussed in detail below, one of ordinary skill in the art would not have been reasonably able to pick and choose all the features from the cited references.

The Office Action relies on a combination of five references, three of which are not in the medical field, to allegedly arrive at the claimed invention. The Office Action alleges that it would be reasonable to expect one of skill in the art to find five different references and to understand each of the references well enough to pick bits and pieces from each reference to arrive at the claims. This many references are needed because no single reference is capable of outlining the claimed invention well enough for the person of skill in the art to use it to fill in the missing pieces.

Applicants respectfully submit that the rejection is piecemeal and that one of ordinary skill in the art would not have been reasonably able to sift through the entire specification of each of these references, pick out the bits and pieces of the newly cited references *Anderson* and *Patel*, and *Christenson* and combine them with *De La Huerga* and *Bocioned* to arrive at the present claims.

De La Huerga teaches a first central computer, a user interface, and a pump unit as part of one single "pump" 100. The Office Action also cites FIGS. 26A and 31 of *De La Huerga*, as evidence against the claims, asserting that element 622 serves as first central computer that communicates with a second computer 630. *Bocioned* is simply cited as a back-up to *De la Huerga* for its disclosure of a portable remote user interface which is connected to a server in communication with an intravenous pump. (See Office Action, page 7). *Christensen* is directed to a method and system of integrating databases for an **educational institution**. *Christensen* appears to have been cited merely to show a first and second database that are able to work in a coordinated manner in which the second database reflects or contains the same information as the first database.

The Office Action concedes, as argued in Applicant's last Response, that *De La Huerga* does not disclose memory 622 being synchronized with data in memory of element 630 at designated time intervals, or critical information changing causing that information to be

immediately relayed to communications device 620, citing *Anderson* and *Patel* to allegedly cure this deficiency.

Anderson is generally directed to a system and method for processing **invoice information** in which billing data is communicated from a first site to a second site. Page 8 of the Office Action asserts that *Anderson* discloses “synchronizing databases on a periodic basis” at column 7, lines 40 to 48:

Customer-specific information stored in intermediary database 66 is synchronized with the information stored in a corresponding customer database 86 on a periodic basis, e.g., on a daily basis. In other words, new information stored in **customer database 86** is copied to intermediary database 66, and new information stored in intermediary database 66 is copied to **customer database 86**. Synchronization can be accomplished by any of several well-known methods. (Emphasis added).

Patel is generally directed to a **transportation network** system and method which integrates communications and data transmission requirements for ground transportation service providers into a single, centrally controlled network. Specifically, the network distributes reservations data and other travel-related information between ground service providers. Page 8 of the Office Action asserts that *Anderson* discloses “synchronizing databases immediately and automatically with any change in information at column 6, lines 55-63:

Any change in information communicated to the **TN system 1**, either from the New York site 3, the Los Angeles site 6, or an internal status update (e.g., from the OAG/RLM **flight information** database) is immediately and automatically communicated to various sites and all the databases at the various sites are synchronized with the identical information. (Emphasis added).

To rely on a reference under 35 U.S.C. §103(a), it must be analogous prior art. (See MPEP 2141.01(a)). “Under the correct analysis, any need or problem known in the **field of endeavor** at the time of the invention and addressed by the patent [or application at issue] can provide a reason for combining the elements in the manner claimed.” *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1397 (2007) (emphasis added). Thus a reference in a field different from that of applicant’s endeavor may only be reasonably pertinent if it is one which, because of the matter with which it deals, logically would have commended itself to an

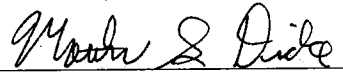
inventor's attention in considering his or her invention as a whole. *Christensen* is directed to a method and system of integrating databases for an educational institution, *Anderson* relates to a billing/invoicing network and *Patel* relates to a ground transportation network. None of these references are in the medical field (the field of endeavor of Applicants' invention). One of ordinary skill in the art at the time of the invention evaluating the best way to accommodate validated and non-validated information in a medical information system would have had no reason to look to the above non-analogous references. Applicants' field of endeavor is specific to an FDA-compliant medical system.

The separation of information in the claimed medical setting has inventive significance. As explained at paragraph [0108] of U.S. Publication No. 2005/0065817, "in one embodiment, a cost-effective integration of medical devices 120 or other devices and functionality with the hospital information systems in the first and second central computers 109, 108a is provided by isolating a subset of the total data mentioned above, such as patient safety-specific information, and locating such information and functionality in a validated/verified part of the system. In this context, ***an FDA regulatory context***, verified means providing objective evidence that all requirements are tested and validated means providing objective evidence that the product meets customer needs." (Emphasis added) By localizing a subset of the database, such as the ***patient safety-specific data*** at the first central computer, at least the cost of system development is further optimized, and integration with third-party non-validated systems and the respective data and information therein is made more time and cost effective. *Christensen*, *Anderson* and *Patel* have nothing to do with FDA-compliant validated/verified sub-systems, patient safety or the medical field in general.

Regarding the rejection of claims 12 and 22 under 35 U.S.C. §103(a) as being unpatentable over *De La Huerga* in view of *Christensen*, *Anderson* and *Gayle*; claims 24, 25 and 27 under 35 U.S.C. 103(a) as being unpatentable over *De La Huerga* in view of *Bocioned* and further in view of *Anderson* and *Patel*; claims 26 and 28 under 35 U.S.C. 103(a) as being unpatentable over *De La Huerga* and *Bocioned* in view of *Anderson*, *Patel* and *Gayle*; and claim 27 under 35 U.S.C. 103(a) as being unpatentable over *De La Huerga* in view of *Bocioned* and further in view of *Anderson* and *Patel*, Applicants respectfully submit that the patentability of these claims flows from the patentability of the above-discussed independent claims.

For the foregoing reasons, Applicants respectfully submit that the present application is in condition for allowance and earnestly solicit reconsideration of same. If the Examiner wishes to discuss the claims as amended herein or has any questions regarding this Response, Applicants encourage the Examiner to contact the undersigned by telephone.

Respectfully submitted,
K&L Gates LLP

BY 

Matthew S. Dicke
Reg. No. 58,819
Customer No. 29200
312-578-5415

Dated: August 26, 2010